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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,638	12/19/2001	Richard A. Kollaja	56782US002	2655

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EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 0225(4) 0602
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, Markush language should also be used in place of "is" in line 1 of claim 5.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability

shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either the English translation of DE 19806452A1 or WO 92/12857. Each of the references disclose (note particularly DE -452, page 7, sixth complete paragraph, and claim 26, as well as page 2, bottom three complete paragraphs, page 3, first and third-sixth complete paragraphs, page 5, second complete paragraph, page 6, last complete paragraph - page 7 line 2, and claims 1, 2, 21 and 22; WO -857, the Abstract, Figure 3, page 8 line 14 - page 9 line 10, page 9 lines 27-34, page 10, lines 18-23, page 11 line 34 - page 12 line 8, page 13 line 20 - page 14 line 25, page 15 lines 12-27, page 26 lines 4-17, and page 31 lines 11-24) in certain embodiments, polymeric co-extruded multilayer webs made from a variety of thermoplastic and other conventional polymers which can include adhesives and the like, and further meet the claimed layered structure set forth in lines 2-6 of applicant's independent claim. Additionally, with respect to the absence of weld lines in the Y-Z plane of the web, this is believed to be either inherent or a parameter well within the ordinary skill of the art. Note that although DE -452 is not generally directed to multilayer embodiments, the use of at least one cover layer can be utilized (page 7, sixth complete paragraph). Additionally, note

particularly Figure 3 of WO -857 and the fact that co-extrusion techniques to form a variety of multilayer articles are expressly taught.

7. Claims 4-12 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either DE -452 translation or WO -857. Each of the references is again relied upon substantially as set forth above, and the remaining dependent claims are believed merely to recite a wide variety of various generic compositions and related species as well as layers and other conventional structures in the art whose selection is but an obvious design choice for one of ordinary skill. Additionally, note also as evidence of the state of the art Wyeth et al., Figures 2-4 and column 2 line 55 - column 3 line 2, column 5 line 50 - column 6 line 15 and column 12 lines 46-59; Schrenk et al., Figures 3 and 11, column 1 lines 46-57, column 8 line 40 - column 9 line 6) which clearly indicate that the particular co-extruded web structure involving a desired number of layers which are either continuous or discontinuous in a selected direction and may further utilize a plurality of distinct phases, are parameters that are well within the ability of the skilled artisan to select. Other parameters that are not either expressly or inherently disclosed are each believed to be obvious modifications to one of ordinary skill, in the absence of unexpected results.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note also Kollaja et al. the issued patent of Serial No. 09/778,523.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

August 8, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1900-
1700

Daniel Zirker